

PEARSON, J.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

CURTIS LEE DALE,	)	CASE NO. 4: 24 CV 692
Petitioner,	)	
v.	)	JUDGE BENITA Y. PEARSON
WARDEN I. HEALY,	)	
Respondent.	)	<b><u>MEMORANDUM OF OPINION</u></b>
	)	<b><u>AND ORDER</u></b>

**I. Background**

*Pro se* Petitioner Curtis Lee Dale, a federal prisoner incarcerated at FCI Elkton, has filed a Petition for a Writ of *Habeas Corpus* under [28 U.S.C. § 2241](#). [ECF No. 1](#). In his Petition, he complains about a \$500 disciplinary fine imposed upon him.

He claims that “[i]t is extortion that [the Bureau of Prisons or BOP] be allowed to fine inmates up to \$500 just because they had a fight or use a cell-phone, not because of any damage to property,” and that if “you don’t sign off on the extortion policy they freeze your funds until you are released.” [ECF No. 1 at PageID #: 7, ¶13](#).

In addition, he claims the fine imposed on him violates the BOP’s “incumbrance [sic] funds policy,” lacks “transparency,” and that there is bias and racial discrimination in how the “DHO Disciplinary Hearing Officer gets to pick and choose who deserves a fine.” [ECF No. 1 at PageID #: 7-8, ¶13](#).

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On his civil cover sheet, Petitioner indicates he asserts the violation of his Eighth Amendment rights. For relief, he asks the Court “to stop this bias and discrimininitive [sic] extortion policy based on race, color, creed, and/or dollar amount on your books,” “make the BOP follow [its] own policy not to take money from pre-release accounts” and to “show transparency as to where this money goes,” and “to have the BOP release [his] \$500 they have fro[zen].” [ECF No. 1 at PageID #: 8, ¶ 15.](#)

On May 3, 2024, Petitioner filed what he labeled as an “Amended Complaint” in the case, in which he complains that a Unit Manager has taken his mail and property and asks for an order requiring that his property be returned. [ECF No. 2.](#)

## **II. Standard or Review**

A federal district court must conduct an initial review of *habeas corpus* petitions. See [28 U.S.C. § 2243](#); [Alexander v. Northern Bureau of Prisons](#), 419 Fed. App'x 544, 545 (6th Cir. 2011). A court must dismiss a petition “[i]f it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief.” Rule 4 of the Rules Governing § 2254 Cases in the United States District Courts (applicable to petitions under § 2241 pursuant to Rule 1(b)). If so, the Court must summarily dismiss the petition. See [Allen v. Perini](#), 424 F.2d 134, 141 (6<sup>th</sup> Cir. 1970) (the district court has a duty to “screen out” *habeas corpus* petitions that lack of merit on their face).

## **III. Discussion**

Upon review, the Court finds that the Petition must be dismissed because it does not raise a claim cognizable under [§ 2241](#). The only claims a federal prisoner may assert in a [§ 2241](#)

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petition are those that challenge the execution of a sentence, such as the manner in which the BOP has computed a prisoner's sentence credits or determined his parole eligibility. *Capaldi v. Pontesso*, 135 F.3d 1122, 1123 (6th Cir. 1998) (citing *United States v. Jalili*, 925 F.2d 889, 893 (6th Cir. 1991)). Section 2241, however, "is not the proper vehicle for a prisoner to challenge conditions of confinement" during otherwise legal incarceration. *Luedtke v. Berkebile*, 704 F.3d 465, 466 (6th Cir. 2013); *Sullivan v. U.S.*, 90 F. App'x 862, 863 (6th Cir. 2004) ("[Section] 2241 is a vehicle not for challenging prison conditions, but for challenging matters concerning the execution of a sentence").

Petitioner's claims do not pertain to the execution of his sentence but, instead, pertain to conditions of his confinement and are not challenges that may be brought under § 2241. In order to challenge the conditions of which he complains, Petitioner must file a civil rights action under *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971). See *Luedtke*, 704 F.3d at 466; *Sullivan*, 90 F. App'x at 863 (construing conditions-of-confinement claims as properly brought in a civil action under *Bivens*). To do so, Petitioner must file a complaint in new case, and either pay the \$405 filing fee applicable to such actions or file an application to proceed *in forma pauperis* in accordance with 28 U.S.C. § 1915.

#### IV. Conclusion

In accordance with the foregoing, the Petition is dismissed without prejudice pursuant to 28 U.S.C. § 2243 and Rule 4 of the Rules Governing *Habeas Corpus* Cases. See *Martin v. Overton*, 391 F.3d 710, 714 (6th Cir. 2004) (holding that the district court should dismiss an improperly-filed § 2241 petition without prejudice to allow the petitioner to re-file his claims in a

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civil rights case). The Court further certifies, pursuant to [28 U.S.C. § 1915\(a\)\(3\)](#), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

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June 12, 2024  
Date

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*/s/ Benita Y. Pearson*  
Benita Y. Pearson  
United States District Judge